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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

ELOY ORTIZ OAKLEY, *et al.*,

Plaintiffs,

v.

BETSY DEVOS, *et al.*,

Defendants.

Case No. 4:20-cv-3215-YGR
ORDER GRANTING
**STIPULATION TO EXTEND
DEADLINE TO RESPOND TO
COMPLAINT AND SUBMIT
STIPULATED CASE MANAGEMENT
SCHEDULE; ~~PROPOSED~~ ORDER**

1 The Parties submit this stipulation and proposed order in advance of the deadline for
2 Defendants' responsive pleading in order to (1) extend the deadline for Defendants' responsive
3 pleading; (2) inform the Court of the Parties' intentions to negotiate a case management schedule
4 that may obviate the need for a case management conference; and (3) seek exemption from
5 alternative dispute resolution ("ADR") requirements. The Parties' stipulation and proposed
6 order is based on the following:

7 1. On May 11, 2020, Plaintiffs filed a Complaint for Declaratory, Injunctive, and
8 Mandamus Relief in this Court based on Defendants' alleged imposition of student eligibility
9 requirements for Higher Education Emergency Relief Fund disbursements under the CARES
10 Act and based on agency actions taken on or around April 21, 2020. ECF No. 1.

11 2. On May 13, 2020, Plaintiffs filed a Motion for Preliminary Injunction ("PI
12 Motion"). ECF No. 16.

13 3. On May 13, 2020, the Court entered an Order Setting Initial Case Management
14 Conference and ADR Deadlines. ECF No. 8. Pursuant to that Order, an Initial Case
15 Management Conference ("CMC") has been scheduled for August 10, 2020, with related ADR
16 Deadlines set for July 20, 2020 and a Rule 26(f) report and Case Management Statement due on
17 August 3, 2020.

18 4. On May 15, 2020, Plaintiffs effectuated service of process on the U.S. Attorney
19 for the Northern District of California. ECF No. 33. Accordingly, Defendants' current deadline
20 to respond to the Complaint is July 14, 2020. *See* Fed. R. Civ. P. 12(a)(2).

21 5. On June 11, 2020, Defendants notified the Court of the forthcoming publication
22 of an Interim Final Rule ("IFR") addressing the student eligibility requirements challenged in
23 Plaintiffs' complaint and PI Motion. ECF No. 39. The Department of Education officially
24

1 published this IFR on June 16, 2020, setting the deadline for public comments on the IFR as
2 July 17, 2020. IFR, 85 Fed. Reg. 36494 (June 17, 2020).

3 6. On June 17, 2020, the Court entered an Order Granting Plaintiffs' Motion for
4 Preliminary Injunction. ECF No. 44.

5 7. Plaintiffs anticipate that they may seek to amend their complaint in this case, but
6 Plaintiffs will be unable to make this determination until after they are able to review the
7 administrative record that Defendants plan to produce.

8 8. The parties agree that, in the interest of judicial economy and litigation efficiency,
9 the date of the filing of Defendants' responsive pleading should be postponed until after
10 Plaintiffs determine whether they will amend their complaint.

11 9. The parties have begun conferring regarding further proceedings in this case and
12 anticipate reaching agreement on a schedule under which Defendants will file an administrative
13 record, Plaintiffs may file an amended complaint, and the parties will set forth a schedule by
14 which the case may be resolved on cross motions for summary judgment.

15 10. The Parties have conferred regarding the suitability of this case for the Court's
16 ADR Multi-Option Program, and have agreed that the case is unlikely to be resolved on a
17 voluntary basis, and that no ADR process is therefore likely to deliver benefits to the Parties
18 sufficient to justify the resources devoted to that process.

19 **THEREFORE, THE PARTIES STIPULATE AS FOLLOWS:**

20 1. Pursuant to Civil Local Rule 6-1(a), Defendants' deadline to answer or otherwise
21 respond to the complaint is postponed.

22 2. The Parties will meet and confer and endeavor to reach agreement regarding the
23 production of the administrative record and timelines for Plaintiffs' amendment of the complaint

1 (if any), Defendants' answer or other response to the complaint, and cross motions for summary
2 judgment.

3 3. The Parties will file either a stipulated proposed case management order or a joint
4 CMC statement on August 3, 2020, setting forth a proposed case management schedule or their
5 respective positions regarding case management, including whether there is a need to keep the
6 August 10, 2020 CMC on the calendar.

7 4. The Parties respectfully request that this case be exempted from the ADR Multi-
8 Option Program consistent with Local Rule 16-8(d)(3).

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11 DATED: July 13, 2020

Respectfully submitted,

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14 Acting Assistant Attorney General
15 MARCIA BERMAN
16 Assistant Director, Federal Programs Branch

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ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I attest that I am the ECF user whose user ID and password are being used in the electronic filing of this document, and further attest that I have obtained the concurrence in the filing of the document from the other signatory.

STIPULATION TO EXTEND RESPONSE DEADLINE AND SUBMIT STIPULATED CASE MANAGEMENT SCHEDULE
Case No. 4:20-cv-3215-YGR

~~PROPOSED~~ ORDER

Upon stipulation of the Parties, and good cause appearing, IT IS ORDERED that:

1. The Parties shall meet and confer regarding deadlines for production of the administrative record, Plaintiffs' amendment of their complaint (if any), Defendants' answer or other response to the complaint, and cross motions for summary judgment.
2. On August 3, 2020, the Parties shall file either a stipulated proposed case management order or a joint CMC statement.
3. The Parties' request to be exempted from the ADR Multi-Option Program consistent with Local Rule 16-8(d)(3) is GRANTED.

Dated: July 16, 2020


YVONNE GONZALEZ ROGERS
United States District Court Judge